

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**TRISHA HINOJOSA, individually and as
Special Administrator and Special Representative
of the Estate of ARTURAS KOLGOVAS,
DECEASED,**

Plaintiffs,

v.

**SHERIFF OF COOK COUNTY;
COOK COUNTY SHERIFF'S POLICE
DEPARTMENT; COOK COUNTY; and
GARY C. CONTRERAS,**

Defendants.

No. 13 CV 9079

Honorable Judge Joan H. Lefkow

SECOND AMENDED COMPLAINT

COUNT I (Wrongful Death)

COMES NOW the Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Deceased, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, and COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

1. On and before and after January 24, 2010, Defendant, SHERIFF OF COOK COUNTY, had in its employ police officers engaged in the performance of their duties.
2. On and before and after January 24, 2010, Defendant, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, had in its employ police officers engaged in the performance of their duties.
3. On and before and after January 24, 2010, Defendant, COOK COUNTY, had a Sheriff's Police Department and employed police officers for the Sheriff's department who were engaged in the performance of their duties.

4. On January 24, 2010, Defendant, GARY C. CONTRERAS, was employed as a Cook County Sheriff.
5. That on January 24, 2010, and at all times relevant hereto, Defendant, GARY C. CONTRERAS, was acting as an agent and/or employee of Defendant, SHERIFF OF COOK COUNTY.
6. That on January 24, 2010, and at all times relevant hereto, Defendant, GARY C. CONTRERAS, was acting as an agent and/or employee of Defendant, COOK COUNTY SHERIFF'S POLICE DEPARTMENT.
7. That on January 24, 2010, and at all times relevant hereto, Defendant, GARY C. CONTRERAS, was acting as an agent and/or employee of Defendant, COOK COUNTY.
8. On January 24, 2010, at all times relevant to this matter, Defendant, GARY C. CONTRERAS, was acting in the course and scope of his employment as a member of the Cook County Sheriff's Police Department.
9. That on January 24, 2010, Decedent, ARTURAS KOLGOVAS, was residing in Glenview, Illinois, County of Cook, State of Illinois.
10. On January 24, 2010, Defendant GARY C. CONTRERAS went to the building where Plaintiff's Decedent ARTURAS KOLGOVAS was residing.
11. That on January 24, 2010, Defendant GARY C. CONTRERAS shot ARTURAS KOLGOVAS.
12. That on January 24, 2010, the Defendants and each of them individually or through their agents and employees committed one or more of the following acts or omissions which amounted to willful and wanton conduct:
 - (a) Shot the Decedent with a bullet designed to fragment upon impact, thereby knowing it would cause extreme bodily harm;
 - (b) Disobeyed procedures for restraining an individual, thereby ignoring the proper use of non-lethal means and subjecting Decedent to receiving great bodily harm;
 - (c) Failed to use non-lethal methods of restraint;
 - (d) Discharged a rifle bullet directed at Decedent with an actual and/or deliberate intention to harm Decedent;
 - (e) Used lethal force against Decedent;
 - (f) Failed to wait for non-lethal procedures to be used and went directly to the use of lethal force with a conscious disregard for Decedent's safety;
 - (g) Shot Decedent in an area of his body likely to cause death or great bodily harm; and

- (h) Intentionally ignored the rules and instructions given to use non-lethal force and used deadly force.

- 13. That on January 24, 2010, ARTURAS KOLGOVAS was injured.
- 14. That the aforesaid injuries subsequently led to the death of the Decedent, ARTURAS KOLGOVAS.
- 15. That the aforesaid injuries and death were a direct and proximate result of one or more of the aforesaid acts and/or omissions of Defendants.
- 16. Decedent, ARTURAS KOLGOVAS, is survived by his wife and two children.
- 17. By reason of the death of ARTURAS KOLGOVAS the next-of-kin have sustained severe loss of society, pecuniary loss and damages for grief, sorrow, and mental suffering.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Decedent, prays judgment against the Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT and COOK COUNTY, and each of them, in an amount in excess of FIFTY THOUSAND DOLLARS (50,000.00), plus costs.

COUNT II (Survival)

COMES NOW the Plaintiff, TRISHA HINOJOSA, Special Representative of the Estate of ARTURAS KOLGOVAS, Deceased, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, and COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

- 1-15. Plaintiff realleges and incorporates paragraphs 1-15 of Count I as and for paragraph 1-15 of Count II as if fully set forth herein.

16. As a proximate result of one or more of the aforesaid acts and/or omissions, the Decedent, ARTURAS KOLGOVAS, was injured and incapacitated; incurred medical and hospital expenses; experienced pain and suffering, loss of a normal life, and disfigurement, from the moment he was injured until his death thereafter.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, Special Representative of the Estate of ARTURAS KOLGOVAS, Decedent, prays judgment against the Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, and COOK COUNTY, and each of them, in an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs.

COUNT III (Funeral Expenses)

NOW COMES the Plaintiff, TRISHA HINOJOSA, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of the Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, and COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

- 1-15. Plaintiff realleges and incorporates paragraphs 1-15 of Count I as and for paragraphs 1-15 of Count II as if fully set forth herein.
16. Plaintiff, TRISHA HINOJOSA was the spouse of Decedent, and became liable for the funeral and burial expenses incurred as a result of the aforesaid acts and/or omissions of Defendants.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, prays judgment against Defendants, SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, COOK COUNTY and GARY C. CONTRERAS, Individually and as agent of SHERIFF OF COOK COUNTY, COOK COUNTY SHERIFF'S POLICE DEPARTMENT, and COOK COUNTY, and each of them, in an amount not to exceed FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs.

COUNT IV (Negligence)

NOW COMES the Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Deceased, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of the Defendant, SHERIFF OF COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

1. On and before January 24, 2010, Defendant, SHERIFF OF COOK COUNTY, had in its employ various police officers.
2. On and before January 24, 2010, Defendant, SHERIFF OF COOK COUNTY, employed and trained various individuals to act as Sheriff of Cook County officers.
3. That on and before January 24, 2010 Gary Contreras was hired as an officer to act on behalf of the Sheriff of Cook County.
4. That prior to January 24, 2010, Defendant, SHERIFF OF COOK COUNTY, trained and was responsible for training Gary Contreras as a Sheriff's police officer.
5. That prior to January 24, 2010, it was the duty of Defendant, SHERIFF OF COOK COUNTY, to insure that Gary Contreras was properly trained in police procedures so as to not cause an unreasonable risk of harm and injury to individuals.
6. That on January 24, 2010, Gary Contreras responded to a domestic dispute situation involving the deceased Plaintiff, Arturas Kolgozas.
7. That on January 24, 2010 and at all times pertinent hereto, Gary Contreras was acting as an agent and or employee of Defendant, SHERIFF OF COOK COUNTY.
8. That on January 24, 2010, Decedent, ARTURAS KOLGOVAS, was residing in Glenview, County of Cook, State of Illinois.
9. That on January 24, 2010, Gary C. Contreras, acting in furtherance of his duties as a Cook County Sheriff, went to the building where Decedent, ARTURAS KOLGOVAS, was residing.
10. That on January 24, 2010, Gary C. Contreras, while acting as a Cook County Sheriff Officer on behalf of the Defendant, Sheriff of Cook County, shot Arturas Kolgozas.

11. That on January 24, 2010, Defendant, SHERIFF OF COOK COUNTY, committed one or more of the following acts or omissions:
 - (a) Failed to train Gary C. Contreras in the proper use of a weapon;
 - (b) Failed to train Gary C. Contreras as to the ballistics and attributes of the ammunition he was given to use;
 - (c) Failed to properly train Gary C. Contreras on how to act and react to different types of situations involving civilians;
 - (d) Failed to train and instruct Gary C. Contreras on the use and attributes of a Taser;
 - (e) Allowed Gary C. Contreras to be assigned to use lethal force in situations which involved use of a Taser without his having sufficient knowledge;
 - (f) Failed to give Gary C. Contreras sufficient information and training on the characteristics of the ammunition he was assigned and what would occur once a bullet hit a human;
 - (g) Failed to train its officers so that an officer assigned the task of being able to use lethal force would have sufficient knowledge to be able to decide when lethal force was to be used; and
 - (h) Failed to provide its officers with sufficient non-lethal force products to subdue a person as opposed to using lethal force.
12. That's on January 24, 2010, Decedent, ARTURAS KOLGOVAS, was injured when shot by Gary C. Contreras.
13. That the aforesaid injuries subsequently led to Arturas Kolgovas' death.
14. That the aforesaid injuries and death were a direct and proximate result of one or more of the aforesaid acts and /or omissions of Defendant, SHERIFF OF COOK COUNTY.
15. Decedent, ARTURAS KOLGOVAS, is survived by his wife and daughter.
16. By reason of the death of ARTURAS KOLGOVAS the next-of-kin have sustained loss of society, pecuniary loss, and damages for grief, sorrow and mental suffering.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Decedent, prays judgment against the Defendant, SHERIFF OF COOK COUNTY, in an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs.

COUNT V

NOW COMES the Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Deceased, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of the Defendant, SHERIFF OF COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

- 1-14. Plaintiff realleges and incorporates paragraphs 1-14 of Count IV as and for paragraphs 1-14 of Count V as if fully set forth herein.
15. As a proximate result of one or more of the aforesaid acts and/or omissions, the Decedent, ARTURAS KOLGOVAS, was injured and incapacitated, incurred medical and hospital expenses; experienced pain and suffering, loss of a normal life, and disfigurement, from the moment he was injured until his death thereafter.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Decedent, prays judgment against the Defendants, SHERIFF OF COOK COUNTY, in an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs.

COUNT VI

NOW COMES the Plaintiff, TRISHA HINOJOSA, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of the Defendant, SHERIFF OF COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

- 1-14. Plaintiff realleges and incorporates paragraphs 1-14 of Count IV as and for paragraphs 1-14 of Count VI as if fully set forth herein.
15. Plaintiff, TRISHA HINOJOSA, was the spouse of Decedent and became liable for funeral and burial expenses incurred as a result of the aforesaid acts and/or omissions of Defendant.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, prays judgment against Defendant, SHERIFF OF COOK COUNTY, in an amount not to exceed FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs.

COUNT VII

COMES now the Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Deceased, by her attorneys, LAW OFFICE OF GEOFFREY G. JOHNSON, and complaining of the Defendants, GARY C. CONTRERAS and SHERIFF OF COOK COUNTY, pleading hypothetically and in the alternative, states as follows:

1. On and before and after January 24, 2010 Defendant, SHERIFF OF COOK COUNTY, employed various individuals to act as Sheriff's Cook County police officers.
2. That on January 24, 2010, Defendant, GARY C. CONTRERAS, was employed by Defendant, SHERIFF OF COOK COUNTY, and at all times relevant hereto was acting in the scope and course of his employment as an employee and officer of the Sheriff of Cook County.
3. That on January 24, 2010, Defendant GARY C. CONTRERAS went to the premises of Decedent Arturas Kolgozas located at 3221 W. Parkway Drive, Northbrook, Illinois.
4. That on January 24, 2010, Defendant GARY C. CONTRERAS shot Arturas Kolgozas.
5. That after being shot, Arturas Kolgozas was transported to Lutheran General Hospital where he subsequently died as a result of being shot by Defendant GARY C. CONTRERAS.
6. As a result of his unlawful and malicious shooting of Arturas Kolgozas, Defendant GARY C. CONTRERAS deprived Arturas Kolgozas of his right to equal protection of the laws, impeded the due course of justice, used excessive force and deprived Arturas Kolgozas of his life and liberty without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. Sec. 1983.

7. At all times relevant to this Complaint, Defendant GARY C. CONTRERAS as a Cook County Sheriff's officer was acting under the direction and control of Defendant SHERIFF OF COOK COUNTY.
8. Defendant SHERIFF OF COOK COUNTY had knowledge or, had he diligently exercised his duty to instruct, supervise, control and discipline on a continuing basis, should have had knowledge that the wrongs conspired to be done, as herein alleged, were about to be committed and had power to prevent or aid in preventing the commission of said wrongs and could have done so by reasonable diligence, and knowingly, recklessly or with gross negligence failed or refused to do so.
9. Defendant SHERIFF OF COOK COUNTY acting under color of law and pursuant to official policy or custom, knowingly and recklessly failed to instruct , supervise, control and discipline on a continuing basis Defendant Sheriff officer GARY C. CONTRERAS in his duties to refrain from unlawfully and maliciously shooting a citizen who was acting in accordance with his constitutional and statutory rights, privileges and immunities, to refrain from using unreasonable and excessive force and from using deadly force when non-lethal methods of control were being attempted, to refrain from conspiring to violate the rights, privileges and immunities guaranteed Arturas Kolgovas by the Constitution and laws of the United States and of Illinois, and to refrain from otherwise depriving Arturas Kolgovas of his constitutional and statutory rights, privileges and immunities.
10. Defendant SHERIFF OF COOK COUNTY directly or indirectly, under color of law, approved or ratified the unlawful, deliberate, malicious and reckless conduct of Defendant Sheriff's officer GARY C. CONTRERAS.
11. As a direct and proximate cause of the acts of Defendants, SHERIFF OF COOK COUNTY and GARY C. CONTRERAS, as set forth above, Arturas Kolgovas suffered physical injury, medical expenses and severe anguish up to the time of his death as a result of being shot, and loss of income, in connection with the deprivation of his constitutional and statutory rights guaranteed by the Fourth, Fifth and Fourteenth Amendments of the Constitution of the United States and protected by 42 U.S.C. Sec. 1983.

WHEREFORE, Plaintiff, TRISHA HINOJOSA, Special Administrator of the Estate of ARTURAS KOLGOVAS, Decedent, prays judgment against the Defendants, GARY C. CONTRERAS and SHERIFF OF COOK COUNTY, jointly and severally, for compensatory damages in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), and for punitive damages, plus costs.

Respectfully submitted:
Law Office of Geoffrey G. Johnson

/s/ Geoffrey G. Johnson
Geoffrey G. Johnson

Geoffrey G. Johnson
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